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APR 20 2004

In re Application of:
CANORA et al.

Application No. 08/987,995

Filed: December 10, 1997

For: PORTABLE ELECTRONIC APPARATUS

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION

This is a decision on the petition pursuant to 37 CFR 1.181 filed January 23, 2004 which requests a review of the validity of the Examiner's action in reopening prosecution following the Decision of the Board of Patent Appeals and Interferences of March 31, 2003.

On March 31, 2003, the Board of Patent Appeals and Interferences rendered a decision, reversing the Examiner with respect to the rejection of all pending claims (paper No. 18). On November 20, 2003, the Examiner mailed out a new non-final Office action (paper No. 19), thus reopening prosecution.

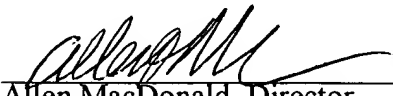
Petitioner states that the examiner did not advance any supporting authority for the reopening of prosecution and requests that the outstanding Office action mailed November 20, 2003 (paper No. 19) be withdrawn and purged from the record.

37 CFR § 1.198 states:

Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 1.196 without the written authority of the Commissioner (emphasis added), and then only for the consideration of matters not already adjudicated, sufficient cause being shown. [49 FR 48416, Dec. 12, 1984, effective date Feb. 11, 1985; revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000)]

A review of the application reveals that the Office action mailed November 20, 2003 in fact was not signed by appropriate authority. Therefore, the petition to invoke the supervisory authority of the Commissioner under 37 CFR § 1.181 and vacate the outstanding Office action is **Granted**.

The Office action mailed November 20, 2003 is hereby vacated. However, the Office action will not be purged from the record. Attached to this decision is a non-final Office action that contains the appropriate signature by the Technology Center (TC) Director in accordance with MPEP § 1214.04.


Allen MacDonald, Director
Technology Center 2600
Communications

Attachment: non-final Office action